

**IN THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF DELAWARE**

ALL-SPAN INC.	:	
	:	
Plaintiff	:	
	:	
vs.	:	
	:	No. 04-CV-1420
UNITED STATES OF AMERICA.	:	
DEPARTMENT OF HOMELAND SECURITY,	:	
C&F CONSTRUCTION INDUSTRIES CORP.	:	
and CUMBERLAND CASUALTY & SURETY CO:	:	
Defendants	:	

RESPONSE OF PLAINTIFF’S COUNSEL TO
ORDER TO SHOW CAUSE
WHY THE CASE SHOULD NOT BE TERMINATED
FOR LACK OF PROSECUTION

I, Robert D. Ardizzi, Esquire hereby depose and say as follows:

1. I am the attorney for record for the Plaintiff in this matter.
2. This case involves a claim by Plaintiff for materials supplied to a federal construction project.
3. Defendant United States of America, Department of Homeland Security was the “Owner” of the construction project. Defendant C&F Construction Industries Corp. was the general contractor for the project and the party to whom Plaintiff furnished the aforementioned materials. Defendant Cumberland Casualty & Surety Company was the surety company for Defendant C&F Construction for the project.
4. Plaintiff was not able to effect service on the United States of America, Department of Homeland Security and the case will be voluntarily dismissed as to that defendant.

5. Defendant C & F Construction was served with the Summons and Complaint and Plaintiff intends to file for a default judgment against defendant C&F immediately.

6. On November 21, 2005, Plaintiff learned for the first time that Defendant Cumberland Casualty had been placed in receivership in Florida. Based upon this information, Plaintiff cannot continue to prosecute this case against Cumberland Casualty and is attempting to resolve the issue amicably.

7. Plaintiff has been diligently attempting to resolve the issues with Cumberland Casualty but it was not until today that Plaintiff became aware of the receivership and its implications in this matter.

8. Based on the foregoing, Plaintiff respectfully requests a fourteen-day extension of time to resolve the issues relating to Defendant Cumberland Casualty and to enter a default judgment against Defendant C & F Construction .

9. If Plaintiff is successful with the above actions, there will be no further need to litigate any issues in this matter. The default judgment will require execution proceedings but the remaining claims will be dismissed.

/s/ Robert D. Ardizzi
ROBERT D. ARDIZZI, ESQUIRE
DE Bar I.D. 3602
Davis, Bucco & Ardizzi
2 N. Colonial Avenue
Elsmere, DE 19805
(302) 345-9808

Date: November 21, 2005